

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (DB) No.1142 of 2024**

Arising Out of PS. Case No.-707 Year-2022 Thana- BARACHATTI District- Gaya

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Pappu Kumar Manjhi, Son of Late Kuleshwar Manjhi Resident of Village -  
Piprahi, Police Station - Barachatti, District - Gaya

... .. Appellant/s

Versus

1. The State of Bihar
2. XXX Daughter of [REDACTED] Resident of Village - Piprahi, Police Station  
- Barachatti, District - Gaya.

... .. Respondent/s

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with

**CRIMINAL APPEAL (DB) No. 1195 of 2024**

Arising Out of PS. Case No.-707 Year-2022 Thana- BARACHATTI District- Gaya

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Arvind Kumar Manjhi S/O Indradeo Manjhi R/O Village- Piprahi, P.S-  
Barachatti, Distt.- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar
2. Mrs. X D/O- Mr. X R/O Village- Piprahi, P.S- Barachatti, Distt.- Gaya.

... .. Respondent/s

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**Appearance :**

(In CRIMINAL APPEAL (DB) No. 1142 of 2024)

For the Appellant/s : Mr. Ajay Kumar Thakur, Adv.

Ms. Surubhi Nirmal, Adv.

For the State : Mr. Satya Narayan Prasad, APP

For the Informant : Mr. Suraj Narain Yadav, Adv.

Mr. Binod Kumar Sinha, Adv.

(In CRIMINAL APPEAL (DB) No. 1195 of 2024)

For the Appellant/s : Mr. Aryan Singh, Adv.

For the State : Mr. Satya Narayan Prasad, APP

For the Informant : Mr. Suraj Narain Yadav, Adv.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

**and**

**HONOURABLE MR. JUSTICE SHAILENDRA SINGH**

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

7 20-02-2026

Heard Mr. Ajay Kumar Thakur, learned counsel for



the appellants, Mr. Suraj Narain Yadav, learned counsel for the informant and Mr. Satya Narayan Prasad, learned Additional Public Prosecutor for the State.

2. Records have been placed before this Court to consider the prayer of the appellants for suspension of the sentence and release on bail during pendency of the appeal.

3. The two appellants in these two appeals are seeking suspension of sentence and release on bail during pendency of these appeals.

4. The appellants have been convicted and sentenced vide order dated 09.08.2024 and 16.08.2024 respectively passed by the court of learned Exclusive Special Judge POCSO-cum-Additional Sessions Judge-VII, Gaya, Bihar, in POCSO Case No. 111 of 2022 arising out of Barachatti P.S. Case No. 707 of 2022, whereby and whereunder the appellants have been sentenced to undergo rigorous imprisonment for life with a fine of Rs. 50,000/- for the offences under Sections 376(3), 376DA and 120B of the Indian Penal Code (in short, 'IPC') each and in default of payment of fine, they shall undergo ten months simple imprisonment. For the sake of brevity, the sentences awarded under other Sections of IPC and POCSO Act are not being mentioned. All the sentences of imprisonment are directed to run concurrently.



5. The prosecution case is based on a written information filed by the mother of the victim girl on 12.08.2022 giving rise to the present case. In her written information, she alleged that on 11.08.2022 at 6:00 P.M. when her daughter (X) aged 14 years was in her house, one of the appellants namely Arvind Kumar Manjhi came in a Scorpio vehicle and parked the same in front of her house then her daughter came outside and the said Arvind Kumar Manjhi along with his companions, namely, Dinesh Manjhi, Indradev Manjhi, Arun Manjhi and Pappu Kumar Manjhi, all of village Piprahi fled away with her daughter (X) in the said Scorpio. The informant claimed that she had raised hulla, in past also Arvind Kumar Manjhi had taken away the victim girl. The informant gave the number of the Scorpio vehicle and the name of the driver who was driving the said vehicle.

6. Learned counsel for the appellants submits that in course of investigation, it came that the place from where the victim girl is said to have taken away is not the house of the victim in village Piprahi, in this regard the statement of the informant (PW-3) is not correct and would fall in the category of false and misleading statement.

7. It is submitted that the prosecution witnesses as



also the victim girl (PW-4) has stated that the victim had gone to the village Barbadih of her maternal grandfather (Nanihal) 4-5 days back and it is the said village from where she was taken away. It is pointed out that the FIR is said to have been registered on 12.08.2022 even though the informant claims herself as an eyewitness of the occurrence of taking away of the victim girl but the FIR reached the jurisdictional court only on 16.08.2022 i.e. after four days of the registration of the FIR.

8. It is further submitted that in course of trial, the victim (PW-4) has changed her statement. She has not claimed that she was subjected to penetrative sexual act rather her statement in examination-in-chief is that the accused persons tried to commit rape on her. She stayed with the accused persons at Ranchi for twelve days and thereafter she claims that a driver had left her in front of the office of the Superintendent of Police (SP), this statement of the victim (PW-4) that she was left in front of the office of the SP seems to be highly unnatural because no accused would do so. The victim girl had been declared hostile by the prosecution and she has been cross-examined by Public Prosecutor, therefore, the submission is that in this case the victim girl is not falling in the category of sterling witness and looking into her statement together with the



medical examination report, the appellants can not be said to have committed any penetrative sexual act.

**9.** Learned counsel submits that since the mother of the victim lodged the FIR with the wrong place of occurrence and the FIR was not only belatedly lodged, the same reached the jurisdictional Magistrate after four days, the victim would not fall in the category of sterling witness and the medical examination report which has been brought on record by the doctor (PW-5) is not showing any tear, laceration or bleeding and further the doctor had stated that the hymen can be ruptured on account of physical activities, cycling, etc. but at the same time the doctor says that the rape can not be denied, are some of the factors which would palpably show that the conviction of the appellants on the basis of sole testimony of the victim, who has been declared hostile, may not be safe, thus, the appellants deserve suspension of sentence and release on bail.

**10.** The prayer has been opposed by learned counsel for the informant and learned Additional Public Prosecutor for the State. It is submitted that the victim in her statement recorded under section 164 of the Cr.P.C. stated that she was subjected to rape and even though the doctor had not found any recent sign of rape but it has been opined that rape cannot be



denied.

11. Having regard to the submissions noted hereinabove and the materials which we have gone through *prima facie* at this stage, we have noticed that in this case at a belated stage mother of the victim girl lodged one FIR in which she disclosed a completely wrong place of occurrence, the victim has though stated in her 164 statement about the commission of rape but in course of trial in her examination-in-chief she changed her statement and she stated that the accused persons tried to commit rape with her and medical opinion is not clearly showing that the victim was subjected to rape whereas the victim had earlier claimed that she was subjected to rape by so many persons, at least some sign of commission of penetrative sexual act would have been available in the medical report but it is not there. Further, this Court finds that the investigating officer has deposed that one of the accused Dinesh Kumar Manjhi was arrested from his village, he had been found injured and was taken to hospital where he was treated in police custody, these are some of the materials showing that the appellants would deserve suspension of sentence and release on bail at this stage. Appellant Pappu Kumar Manjhi remained in incarceration for two years and three months and appellant



Arvind Kumar Manjhi remained in incarceration for 3¼ years and this appeal is not likely to be heard in near future, we direct suspension of sentence and release of the appellants namely, Pappu Kumar Manjhi and Arvind Kumar Manjhi, on bail during pendency of the appeal on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge POCSO-cum-Additional Sessions Judge-VII, Gaya, Bihar, in POCSO Case No. 111 of 2022 arising out of Barachatti P.S. Case No. 707 of 2022.

**12.** Fine, if any, imposed as part of the sentence shall remain suspended during pendency of the appeal.

**13.** It is clarified that the observations made hereinabove are only for purpose of consideration of the prayer of the appellant for bail and those are tentative in nature which would not cause prejudice to any of the parties.

**14.** List these appeals on its turn.

**(Rajeev Ranjan Prasad, J)**

**( Shailendra Singh, J)**

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